

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB854

Hearing Date: January 29, 2008

Committee On: Banking, Commerce and Insurance

Introducer(s): (Banking, Commerce and Insurance Committee)

Title: Adopt the Discount Medical Plan Organization Act

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

8 Yes Senators Carlson, Christensen, Gay, Hansen,
Langemeier, Pahls, Pankonin, Pirsch

0 No

0 Absent

0 Present, not voting

Proponents:
Senator Rich Pahls
Ann Frohman
Bruce Rieker

Representing:
Introducer
NE Department of Insurance
NE Hospital Assn

Opponents:
Allen Erenbaum

Representing:
Consumer Health Alliance

Neutral:

Representing:

Summary of purpose and/or change:

LB 854
Section-by-Section Synopsis

DISCOUNT MEDICAL PLAN ORGANIZATION ACT

Section 1 would amend section 28-631 to specify that willful operation of an unregistered discount medical plan organization or collection of fees without providing the promised benefits is a fraudulent insurance act. Section 1 would specify that commission of such a fraudulent insurance act is a Class IV Felony. Section 1 would amend the definition of “insurer” in section 28-631 to include a discount medical plan organization.

Section 2 would amend section 44-6603 of the Insurance Fraud Act to amend the definition of “insurer” to include discount medical plan organizations.

Section 3 would amend section 44-6604 of the Insurance Fraud Act to specify that willful operation of an unregistered discount medical plan organization or collection of fees without providing the promised benefits is a fraudulent insurance act.

Section 4 would enact a new section to provide for a named act: Discount Medical Plan Organization Act.

Section 5 would enact a new section to provide that the purposes of the act are to promote the public interest by establishing standards for discount medical plan organizations.

Section 6 would enact a new section to provide definitions for “affiliate”, “ancillary services”, “control”, “director”, “discount medical plan” (a contract under which a person offers access to medical providers at a discounted price), “discount medical plan organization” (an entity that offers a discounted medical plan), “facility”, “health care professional”, “health carrier”, “marketer”, “medical services”, “member”, “person”, “provider”, and “provider network”.

Section 7 would enact a new section to provide standards under which “control” is presumed to exist for purposes of the act.

Section 8 would enact a new section to provide that the act applies to discount medical plan organizations doing business in or from this state. Section 8 would specify circumstances under which a discount medical plan organization would not be required to register, and would specify that health care providers who offer discounts to their patients without a fee for such a discount are not required to register.

Section 9 would enact a new section to require discount medical plan organizations to register with the Director of Insurance and would provide the process for application for and issuance of a registration for a

discount medical plan organization. Section 9 would set standards for the director to evaluate the application and would provide the process for approval or disapproval of the application. Section 9 would allow the director to revoke or suspend a registration, impose an administrative penalty, or issue a cease and desist order for violations of the act, and would provide the process for the revocation or suspension proceedings. Section 9 would provide for annual renewal of the registration of a discount medical plan organization. Section 9 would require discount medical plan organizations to give notice to the director of disciplinary proceedings in other states.

Section 10 would enact a new section to provide that the Director of Insurance may examine the business affairs of a discount medical plan organization and standards. Section 10 would provide for the process for the examination. Section 10 would require a discount medical plan organization to pay the costs of examination.

Section 11 would enact a new section to provide that a discount medical plan organization may charge a reasonable fee for its plan. Section 11 would allow members to claim reimbursement if they cancel the membership within 30 days. Section 11 would require that the fee bear a reasonable relation to the services provided.

Section 12 would enact a new section to require a discount medical plan organization to have a written agreement with health providers meeting the requirements set forth in the act and would set forth requirements for the agreement. Section 12 would require the discount medical plan organization to maintain an internet site and toll-free telephone number listing providers under the plan. Section 12 would require a discount health plan organization to maintain contracts with sufficient types and numbers of providers to meet the standard set forth in the act and would require maintenance of an access plan.

Section 13 would enact a new section to provide that a discount medical plan organization may contract with marketers. Section 13 would require an agreement for marketing, and would set standards for the agreement.

Section 14 would enact a new section to provide that all advertising materials of the discount medical plan organization shall be truthful and not misleading. Section 14 would set standards for an advertising material to not be misleading. Section 14 would prohibit the use of words that would lead people to believe they are purchasing insurance. Section 14 would require a discount medical plan organization to disclose information. Section 14 would require that members receive plan documents.

Section 15 would enact a new section to require a discount medical plan organization to notify the Director of Insurance of changes in contact information for the discount medical plan organization.

Section 16 would enact a new section to provide that if such information is not provided at the time of renewal of the discount medical plan organization, the discount medical plan organization shall provide to the Director of Insurance an annual report of the discount medical plan organization's activities. Section 16 would provide penalties for failure to provide such reports.

Section 17 would enact a new section to provide that violations of the act are a violation of the Unfair Trade Practices Act and would provide for administrative penalties for violations of the act.

Section 18 would enact a new section to provide cease and desist authority to the Director of Insurance.

Section 19 would enact a new section to provide the Director of Insurance with rule and regulation authority to carry out the act.

Section 20 would provide repealers.

Explanation of amendments, if any:

The committee amendments would make the following changes:

The committee amendments would amend section 6 to clarify that “regulations” means “rules and regulations.”

The committee amendments would amend section 9 of the bill to decrease the application fee for a certificate of registration from an amount not to exceed one thousand five hundred dollars to an amount not to exceed five hundred dollars. The committee amendments would amend section 9 of the bill to strike a requirement that an application for a certificate of registration include information that would permit the Director of Insurance to make a determination that the applicant has a network that is sufficient in numbers and types of providers to assure that all health care services to covered persons will be accessible without unreasonable delay. The committee amendments would amend section 9 of the bill to increase the renewal fee for a certificate of registration from one hundred dollars to three hundred dollars.

The committee amendments would amend section 11 of the bill to strike a requirement that a fee or charge charged by a discount medical plan organization shall bear a reasonable relationship to the benefits to be received by the member.

The committee amendments would amend section 12 to strike a requirement that a discount medical plan organization shall maintain a toll-free telephone number “on a twenty-four hour basis.” The committee amendments would amend section 12 of the bill to strike requirements that a discount medical plan organization shall maintain contracts with sufficient numbers and types of providers to ensure that all health care services will be accessible without delay; that in the case of emergency services, covered persons shall have access twenty-four hours per day, seven days per week; and that a discount medical plan organization shall ensure reasonable proximity of participating providers.

The committee amendments would amend section 14 of the bill to strike requirements that the written document that contains the terms and conditions of the discount medical plan which must be provided to new members shall contain contact information for the Department of Insurance and the email address of the discount medical plan organization. The requirement for the email address would be replaced by a requirement for a toll-free telephone number.

The committee amendments would amend section 16 of the bill to strike the requirement that the annual report which a discount medical plan organization must file with the Director of Insurance shall include information allowing the director to determine whether the discount medical plan organization maintains an adequate provider network.

Senator Rich Pahls, Chairperson